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10 UNITED STATES DISTRICT COURT
11 NORTHERN DISTRICT OF CALIFORNIA
12

13 MARY B. LABRADOR, individually and on
behalf of all others similarly situated,

14 Plaintiff,

15 vs.

16 SEATTLE MORTGAGE COMPANY,

17 Defendant.
18

Case No.: CV-08-2270 SC

**AMENDED NOTICE OF MOTION TO
DISMISS COMPLAINT**

Hearing: July 11, 2008
Time: 10:00 a.m.
Courtroom: 1, 17th Floor
Senior Judge: Samuel Conti

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20 Please take notice that on July 11, 2008, at 10:00 a.m., or as soon thereafter as counsel may
21 be heard in Courtroom 1, 17th Floor, of the above-entitled court at 450 Golden Gate, San Francisco,
22 California, before the Honorable Samuel Conti, defendant Seattle Mortgage Company will, and it
23 hereby does, move pursuant to Fed. R. Civ. P. 12(b)(6) to dismiss:

24 1. Plaintiffs' entire complaint on the ground that the complaint does not allege facts
25 showing a violation of 24 C.F.R. §206.31(a)(1) in that a lender's payment of a "correspondent fee"
26 to a mortgage loan broker does not create a "financial interest" between the broker and lender. The
27 complaint alleges no other facts to make its other claims plausible.
28

2. Plaintiffs' first cause of action on the ground that California law creates no separate private right of action for elder abuse.

3. Plaintiffs' third cause of action on the grounds that

a. The California Consumers Legal Remedies Act (Civ. Code, §1750 et seq.) does not apply to transactions, such as those alleged in the complaint, involving only the extension of credit; and

b. Plaintiff has not alleged facts showing a violation of the Consumers Legal Remedies Act's specific prohibitions.

Defendant brings this motion pursuant to Fed. R. Civ. P. 12(b)(6) on the grounds stated above. The motion is based on this notice, the Motion to Dismiss Complaint and Supporting Memorandum and [Proposed] Order, filed as Document Number 5 on May 6, 2008, Appendix of Other Authorities in Support of Defendant's Motion to Dismiss Complaint, filed as Court Document Number 6 on May 6, 2008, the complaint, and all other records and papers on file in this action.

DATED: May 14, 2008

SEVERSON & WERSON
A Professional Corporation

By: /s/ Andrea H. Henningsen
Andrea H. Henningsen

Attorneys for Defendant
SEATTLE MORTGAGE COMPANY

I hereby attest that I have on file all holograph signatures for any signatures indicated by a "conformed" signature (/s/) within this e-filed document.